

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GERARDO SALDANA §
§
VS. § CIVIL ACTION NO. _____
§
TJX COMPANIES, INC. Ind. And d/b/a § JURY DEMAND
MARSHALLS §
§

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE FEDERAL DISTRICT COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, TJX Companies, Inc., Ind. and d/b/a Marshalls (“TJX”) hereby gives notice that it is removing this civil action to the United States District Court for the Southern District of Texas, Houston Division. In support of this Notice of Removal, TJX would respectfully show:

1. On May 6, 2013, Gerardo Saldana filed his Original Petition in Cause No. 2013-26812; *Gerardo Saldana v. The TJX Companies, Inc., Ind. And d/b/a Marshalls and The Marmaxx Group* in the 61st Judicial District Court of Harris County, Texas, naming TJX as a Defendant. The citation and a copy of Plaintiff's Original Petition were mailed on June 5, 2013 and received by TJX on June 10, 2013. Therefore, this notice of removal is timely under 28 U.S.C. § 1446(b).

2. True and correct copies of all documents filed in the state court proceeding are attached hereto and incorporated herein by reference. In accordance with Local Civil Rule 81, Exhibit A to this Notice of Removal is an index of required documents, and the required documents are attached thereto, and Exhibit B is a list of all counsel of record.

3. This suit involves a controversy between citizens of different states. At the time of the filing of this action and at the time of removal, Plaintiff was a citizen of the state of Texas. TJX is a corporation incorporated under the laws of the State of Delaware with their principal place of business located at 770 Cochituate Rd., Framingham, MA 01701.

4. The matter or amount in controversy in this suit exceeds the sum of \$75,000.00, exclusive of interest and costs.

5. Plaintiff's Original Petition does not specify the amount of damages that he seeks to recover; however, he affirmatively states that the amount in controversy exceeds \$50,000.00 (the minimal jurisdictional limits of State District Courts). Plaintiff alleges injuries as a result of Defendant's alleged negligence. Specifically, Plaintiff alleges that as a result of the alleged incident he was caused to undergo several surgeries to remove all the toes on his right foot and now suffers from extreme physical impairment, disfigurement and scarring. See paragraph 10 of Plaintiff's Original Petition.

6. Plaintiff has asked for and alleged the following damages:

- (a) Reasonable and necessary medical expenses in the past and future;
- (b) Loss of earning capacity;
- (c) Lost wages;
- (d) Permanent injury;
- (e) Physical impairment; and
- (f) Scarring.

Id. at Count One paragraph 4.

7. Additionally, as indicated on the Civil Case Information Sheet filed along with Plaintiff's Original Petition, Plaintiff indicates that the damages in this case are over \$200,000.00 but not more than \$1,000,000.00. See Exhibit A. Therefore, because the amount in controversy meets the requirements as set out in 28 U.S.C. § 1332(a)(1), this matter is appropriate for removal to this Honorable Court.

8. TJX filed its Original Answer, with jury demand, in State Court on June 24, 2013. At the time TJX made an appearance, Plaintiff had not served The Marmaxx Group and therefore its consent to this removal is not necessary.

9. This Notice of Removal will be provided to Plaintiff by service of a copy upon his counsel of record, in accordance with 28 U.S.C. §1446(d). Further, a copy of this Notice of Removal will be filed with the District Clerk of Harris County, in accordance with 28 U.S.C. §1446(d).

10. Therefore, TJX prays that this cause be removed from the 61st Judicial District Court of Harris County, Texas, to this Federal Court, and for any other relief to which Defendant may be entitled.

Respectfully submitted,

/s/ Marshall G. Rosenberg

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing instrument was served upon the parties listed below by the method(s) indicated on the 26th day of June, 2013.

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/s/ Marshall G. Rosenberg

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